

### **Remarks**

Claims 1-4, 6-16, 23 and 25-27 are pending in the application, and each was rejected. Based on the following, reconsideration of the claim rejections is requested.

#### **Claim Rejections—35 U.S.C. § 112**

The Examiner rejected each of the pending claims under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. In particular, the Examiner states that each of independent claims 1, 11 and 23 "appears to present a contradictory scope, in that each claim now relates limitations recited in an alternative fashion to parallel limitations recited in cumulative fashion." At the outset, Applicants respectfully submit that a claim is not properly rejected under Section 112, second paragraph, based on a mere appearance of a contradictory scope. Section 112, second paragraph, requires that "[t]he specification [ ] conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention." For the following reasons, Applicants submit that each of the claims rejected by the Examiner meets these criteria.

First, Applicants point to the Examiner's own words. In the Office Action dated 28 August 2007, the Examiner stated that "[c]laims 21, 22 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." In the Amendment filed on 31 October 2007, Applicants did exactly that. Except for changing the form of some verbs to a gerund form, and eliminating "wherein", claims 1, 11 and 23 as currently pending have been rewritten in accordance with the Examiner's instructions to respectively include all of the limitations of claims 21, 22 and 24 and any intervening claims; therefore, Applicants submit that it is improper for the Examiner to now find a Section 112 rejection where none previously existed.

In addition, although the claims may "appear contradictory", in fact, they are not. In the second paragraph of the body of claim 1, which includes lines 6-9, the step of "comparing at least one vehicle system controller condition to a corresponding predetermined vehicle system controller condition" is generally defined, and then in the third paragraph of the body of the claim, which includes lines 14-16, it is more specifically defined. There is nothing indefinite about providing a general definition for a claim element and then further refining and defining that element—either in a dependent claim, or in the independent claim itself.

The Examiner states that "rejections under 35 USC § 102 and 103 should not be based upon considerable speculation as to the meaning of the terms employed and assumptions as to the scope of the claims when the claims are not definite." Applicants do not disagree; however, with regard to claims 1, 11 and 23, the Examiner previously found them definite enough to be allowable, and they have not become less definite since the last Office Action. Based on the foregoing, Applicants respectfully request allowance of each of the pending claims.

Please charge any additional fees or credit any overpayments as a result of the filing of this paper to Ford Global Technologies, LLC Deposit Account No. 06-1510.

Respectfully submitted,

**Fangjun Jiang et al.**

By /Marc F. Malooley/  
Marc F. Malooley  
Reg. No. 50,624  
Attorney/Agent for Applicant

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**BROOKS KUSHMAN P.C.**  
1000 Town Center, 22nd Floor  
Southfield, MI 48075-1238  
Phone: 248-358-4400; Fax: 248-358-3351